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not recover. *The Trust Co. of America v. Hamilton Bank*, 127 N. Y. App. Div. 515.

The Negotiable Instruments Law provides that "the instrument is payable to bearer . . . when it is payable to the order of a fictitious or non-existing person and such fact was known to the person making it so payable." See N. Y. Gen. Laws, c. 50, § 28. In the principal case the instrument was made payable in name to a real person. But in this country the intention of the drawer determines the fictitiousness of the payee. *Shipman v. Bank*, 126 N. Y. 318; *Armstrong v. Nat'l Bank*, 46 Oh. St. 512. If the drawer intends that the name inserted as payee shall not represent any person who shall receive an interest in the check, the payee is fictitious. See *Shipman v. Bank*, *supra*. And the possibility of identifying such name with some existing person is of no consequence. *Phillips v. Mercantile Nat'l Bank*, 140 N. Y. 556. The main case therefore seems correct. The same result has been reached in England under the Bills of Exchange Act in a case involving exactly similar facts. *Bank of England v. Vagliano Bros.*, [1891] A. C. 107. The New York statute to have avoided litigation on this point might have added the further clause: "or to a living person not intended to have any interest in it."

BROKERS—CUSTOMERS' RIGHTS IN PROCEEDS OF STOCK WRONGFULLY REPLEGDED.—A delivered shares of stock to a broker for safe keeping; B pledged shares with him as collateral for advances; the broker held shares purchased for C on margin. The broker pledged all the shares to D and then became insolvent. D, to satisfy his claim, sold all of A's and some of B's shares. *Held*, that A is entitled to have the stock of B and C sold and the proceeds applied in satisfaction of his claims against the broker. *Matter of Mills*, 39 N. Y. L. J. 761 (N. Y., App. Div., May, 1908). See NOTES, p. 133.

CONSTITUTIONAL LAW—CLASS LEGISLATION—DENIAL OF RIGHT TO CHALLENGE GRAND JURORS.—A New Jersey statute provided that any grand juror over 65 years old might be challenged, but that such challenge must be taken before the impaneling of the grand jury. The defendant was convicted of a murder committed after the grand jury was impaneled. Two of its members were over 65 years old. *Held*, that although the defendant was unable to challenge, his conviction is not a denial of equal protection of the laws. *Lang v. New Jersey*, 209 U. S. 467.

Equal protection of the laws requires that all persons shall be treated alike in like circumstances. But classification based upon some real difference is not thereby prohibited. Accordingly, statutes allowing more challenges in large cities than elsewhere, or fewer challenges in the event of a struck jury, do not deny the equal protection of the laws. *Hayes v. Missouri*, 120 U. S. 68; *Brown v. New Jersey*, 175 U. S. 172. In the principal case, if offenders are divided into two classes—those committing crime before and after the impaneling of the grand jury—there is certainly no discrimination within the classes. And a difference in time is one upon which classification for the more efficient administration of justice may reasonably be based. See *State v. Jackson*, 105 Mo. 196. But according to the interpretation of the statute by the New Jersey court, there is no real classification; for the defendant had the same right, though not the same motive, as those who had committed offenses before the impaneling of the grand jury, to challenge before that time. *State v. Lang*, 68 Atl. 210 (N. J.). Hence he has not been subjected to unfavorable discrimination. It is upon this theory that the case may be most satisfactorily supported.

CONSTITUTIONAL LAW—SEPARATION OF POWERS—JURISDICTION OF THE COURTS OVER CONTROVERSIES INVOLVING POLITICAL QUESTIONS.—The plaintiff brought an action in the courts of British India to establish his right to succeed to lands there situated as the rightful successor to the existing Rajah of an independent native state. *Held*, that the court has no jurisdiction, since, the plaintiff's property right being merely contingent, the court is really asked to determine the succession to the throne of a sovereign. *Shamarendra Chandra Deb Barman v. Birenda Kishore Deb Barman*, 12 Calcutta W. N. 777 (Calcutta High Ct., May 21, 1908). See NOTES, p. 132.